

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 EA-07 NEA-10 IO-11 ISO-00 AGR-05

CIAE-00 COME-00 INR-07 LAB-04 NSAE-00 SP-02 STR-04

TRSE-00 CIEP-01 FRB-03 OMB-01 SS-15 L-03 H-02 NSC-05

/100 W

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P R 041130Z FEB 76

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 7948

INFO AMEMBASSY LONDON

AMEMBASSY ISLAMABAD

AMEMBASSY OTTAWA

AMEMBASSY PARIS

USMISSION EC BRUSSELS

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E.O. 11652: NA

TAGS: ETRD GATT

SUBJ: TEXTILES/ TSB THIRTY-SECOND SESSION JAN 27-FEB 2

REF: STATE 020364, GENEVA 547

1. SUMMARY: CHAIRMAN CONVENED SESSION JAN 27 WHICH:

A) APPROVED REPORT REVIOUS SESSIN; B) REVIEWED, APPROVED, AND TRANSMITTED TO TC TWO CANADA/KOREA ART3 BILATERAL AGREEMENTS; C) DECIDED DEFER CONSIDERATION EC-INDIA BILATERAL AND RELATED "PHASE-OUT" PROGRAM- WHICH HAD BEEN NOTIFIED TO TSB BEFORE EC-PAKISTAN AGREEMENT-ON GROUNDS "PHASE-OUT" ISSUE COMMON TO BOTH AGREEMENTS AN COMPLAINT BY PAKISTAN ON THIS ISSUE SHOULD TAKE PRECEDENCE OVER ROUTINE REVIEW OF EC-INDAI AGREEMENT; D) HEARD ORAL ARGUMENTS (IN EXTENSO) BY EC AND PAK DELS AND ANSWERS TO QUESTIONS PUT TO BOTH BY TSB MEMBERS, AND, E) FINALLY AFTER FIVE DAYS

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CONSULTATION BETWEEN TSB MEMBERS AND EC AND PAK

REPS, PRODUCED A WRITTEN "CONCLUSION"-AS OPPOSED TO THE MORE FORMAL "RECOMMENDATION"-WHICH WAS ACCEPTABLE TO BOTH PARTTIES. CONCLUSIONS WERE: A) THAT RESIDUAL RESTRICTIONS INCLCUEDED IN EC "PHASE-OUT" PROGRAM FOR PAKISTAN COVERED PRODUCTS WHICH HAD BEEN RESTRINED UNDER BILATERAL AGREEMENTS BETWEEN EC AND PAKISTAN; B) THAT THEY SHOULD HAVE BEEN DEALT WITH UNDER THE PROVISIONS OF ART 2, PARA 3 RATHER THAN ART 2, PARA 2; AMD C) THEREFORE, THE TSB "URGED"BOTH PARTIES TO REVIEW "JOINTLY AND FORTH-WITH" THE RESTRICTIONS IN QUESTION WITH A VIEW TOWARD REACHING A MUTUALLY ACCEPTABLE UNDERSTANDING ON THE TREATMENT OF THESE RESTRICTINS AND TO REPORT PROGRESS TO TSB BY FEB 29.

2. PAKISTAN DEL (PLANTIFF) OPENED WITH SUMMARY OF PAKISTAN'S COMPLAINT WHICH WAS THAT EC HAD NO RIGHT UNILATERALLY IMPOSE PHASE-OUT PROGRAM ON RESTRICITIONS (UK AND FRANCE) WHICH HAD BEEN SUBJECT TO PRIOR BILATERAL AGREEMENT BETWEEN EC AND PAKISTAN OR MEMBER STATE AND PAKISTAN. PAK DEL ARGUED THAT ART 2, PARA 2 WAS APPLICABLE ONLY TO UNILATERAL RESTRICTIONS IN EFFECT WHEN MFA CAME INTO FORCE AND EC COULD PROPERLY ACT ONLY UNDER ART 2, PARA 3. PAKS FURTHER ARGUED THAT EVEN IF TSB FOUND EC RESIDUAL RESTRICTIONS TO BE OF UNILATERAL ORIGIN, THEE WAS NO CONNECTION BETWEEN ART 2 PARA 2(I) AND ART 2 PARA 2(II), THEREFORE, THE ONE YEAR EXTENSION OPTION IN PARA 2(II) DID NOT AUTHROIZE A SIMILAR EXTENSTION FOR THE INTRODUCTION OF A PHASE-OUT PROGRAM. PAK REP, THEREFORE, CONCLUDED THAT WHATEVER THE ORIGIN OF THE RESTRIC-TIONS, THE EC HAD NOT ACTED CONSISTENTLY WITH MFA. PAK REP STATED UN CONCLUSION THAT PAKISTAN WOULD ABIDE BY WHATEVER DECISION TSB REACHED AND, FURTHER, THAT PAKISTAN WAS ALWAYS READY TO CONSULT BILATERALLY WITH ANY OF ITS TRADING PARTNERS.

3. EC REP MEYNELL, IN CORRIDER CONVERSATION WITH US REP BEFORE HEARING, RECOGNIZED THAT EC'S "LEGAL" POSITION WAS POOR AT BEST AND SAID THAT, PERFORCE, LIMITED OFFICIAL USE

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HE WOULD HAVE TO URGE THE TSB TO RECOGNIZE THE "POLITICAL REALITIES" WITHIN THE EC, TO CONSIDER THE VERY SMALLY AMOUNT OF TRADE REMAINING UNDER RESIDUAL RESTRICTION, TO UNDERSTAND THAT THE EC WAS WILLING TO GO TO GREAT LENGTHS TO SATISFY ANY REAL TRADE PROBLEM THE PHASE-OUT PROGRAM POSED FOR PAKISTAN, AND FINALLY, TO POINT OUT TO TSB THAT A HARD LEGAL STAND BY TSB WOULD ONLY LEAVE EC WITH OPTIONS OF IGNORING TSB

OR RENEGOTIATING ALL EC BILATERALS-EXCEPT JAPANESE BILATERAL WHERE PHASE-OUT PROGRAM WAS AGREED WITH JAPANESE. MEYNELL'S SUBSEQUENT STATEMENT TO BODY ALONG THESE LINES WAS CAREFULLY ORGANIZED, AND, BY MEYNELL'S PREVIOUS STANDARDS OF PERFORMANCE, ALMOST HUMBLLY AND APOLOGETICALLY PRESENTED. HIS RESPONSES TO ALL TSB QUESTIONS WERE NOTABLY FORTHRIGHT AND COMPLETE AND CLEARLY MADE A GOOD IMPRESSION ON THE DEVELOPING EXPORTING COUNTRY MEMBERS.

4. IN TSB CONSULTATIONS FOLLOWING EC-PAK PRESENTATIONS, IT BECAME CLEAR ALMOST IMMEDIATELY THAT ALL MEMBERS OF BODY RECOGNIZED THAT BLACK-AND-WHITE LEGAL FINDING AND RECOMMENDATION WOULD LIKELY FORCE EC TO OPTIONS MENTIONED BY MEYNELL. EC REJECTION OF A TSB FINDING THAT PHASE-OUT PROGRAM CLEARLY ILLEGAL AND RECOMMENDATION FOR ELIMINATION WOULD FORCE PAKISTAN TO APPEAL TO TEXTILES COMMITTEE WITH UNPREDICTABLE CONSEQUENCES FOR THE FUTURE OF MFA. EC UNPREDICTABLE CONSEQUENCES FOR THE FUTURE OF MFA. EC ACCEPTANCE SUCH RECOMMENDATION INVOLVING RENEGOTIATION OF BILATERALS TO INCLUDE COVERAGE OF CERTAIN OF THE PHASE-OUT ITEMS, AND CONSIDERING PRESENT STATE OF EC INDUSTRY, WOULD ENTAIL RISK OF LOSS OF SOME BENEFITS EXPORTING COUNTRIES HAVE ALREADY OBTAINED IN EXISTING EC AGREEMENTS, NOT TO MENTION INTRODUCING CHAOS INTO TRADE. THUS, IN LAST ANALYSIS, NEITHER EC NOR PAKISTAN WISHED TO FORCE ISSUE TO POINT WHERE MFA ITSELF WOULD BE IN PERIL.

5. CHAIRMAN JOINTLY ASKED US,NORDIC,JAPAN, EGYPT, AN HONG KONG REPS TO ATTEMPT DRAFT A REPORT WHICH WOULD UPHOLD PRINCIPLES OF MFA, SAVE FACE FOR EC AND BRING BOTH PARTIES INTO CONSULTATION AND/OR LIMITED OFFICIAL USE

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NEGOTIATION. THIS ASSIGNMENT INVOLVED CONTINUING CONSULTATIONS (AND NEGOTIATIONS) BETWEEN DRAFTING GROUP AND EC-PAK REPS. THIS PROCESS SUCCESSFULLY COMPLETED EVENING FEB 2 ALONG LINES MENTIONED PARA 1 ABOVE.

6. TEXT OF TSB "CONCLUSIONS" THIS CASE FOLLOWS SEPTTEL. DALE

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